

August 1, 2007 BZA



REQUEST ANALYSIS
AND
RECOMMENDATION

07AN0370

Dorothy Whitbeck

Bermuda Magisterial District
4450 Cara Hill Lane

REQUEST: A Special Exception to permit the keeping of five (5) adult dogs in a Residential (R-12) District.

RECOMMENDATION

Recommend denial of this Special Exception for the following reasons:

- A. The proposed use may be likely to have an adverse effect on the health, safety or welfare of persons residing in this neighborhood or on adjacent property.
- B. The keeping of five (5) dogs is incompatible with the permitted uses in this Residential (R-12) District.
- C. There are no conditions that will be adequate to address the negative impacts that keeping five (5) dogs on the property will have on this residential area.

GENERAL INFORMATION

Location:

Property is known as 4450 Cara Hill Lane. Tax ID 791-639-0582 (Sheet 34).

Existing Zoning:

R-12

Size:

0.3 acre

Existing Land Use:

Residential

Adjacent Zoning and Land Use:

North - R-12; Residential

South - R-12; Residential

East - R-12; Residential

West - A; Residential

Utilities:

Public water and sewer

General Plan:

(Southern and Western Area Plan)

Residential
(2.51 – 4.0 units per acre)

DISCUSSION

The applicant requests a Special Exception to permit the keeping of five (5) dogs in a Residential (R-12) District. This use is classified by the Zoning Ordinance as a private kennel. The Ordinance defines a private kennel as “A place where three or more dogs, more than four months old, are kept for private use.”

The applicant provides the following information in support of this request:

We would like to have this Special Exception approved in order to care for and keep our five (5) adult dogs. They stay indoors except for their restroom time and only go in the fenced rear yard. We have acquired a bark control collar for the one “barker”. The dogs will not be a disturbance to any of the surrounding property. They do not stay out at night and never roam the neighborhood.

Planning Department staff visited the site in response to a complaint. Staff’s inspection revealed that the applicant was in violation of the Zoning Ordinance by keeping more than two (2) adult dogs (private kennel) in a Residential (R-12) District. This request is in response to staff’s investigation and determination that this property was in violation of the Zoning Ordinance.

Staff notes that this property consists of 0.3 acre and is zoned Residential (R-12). Staff's field inspection, relative to this request, revealed that this property is located in the Greenbriar Woods Subdivision. There are single family dwellings located to the north, south, east and west of the subject property. Staff's field inspection also revealed a four (4) foot tall chain-link fence located around the perimeter of the rear yard.

Further, staff notes that the Zoning Ordinance restricts the applicant from boarding or breeding dogs or for keeping them for other purposes for commercial gain. If the applicants were considering boarding, breeding, or using the dogs for other purposes for commercial gain, a Conditional Use would be required.

This request may have an adverse effect on the character of the area and may adversely affect the welfare of the persons residing in the area because the noise produced by five (5) dogs may create a nuisance. Staff notes that a 0.3 acre lot is not large enough to accommodate five (5) dogs because of the proximity of adjacent dwellings; therefore, this proposed use (private kennel) is not compatible with uses that are permitted in a Residential (R-12) District which is intended for single-family dwellings.

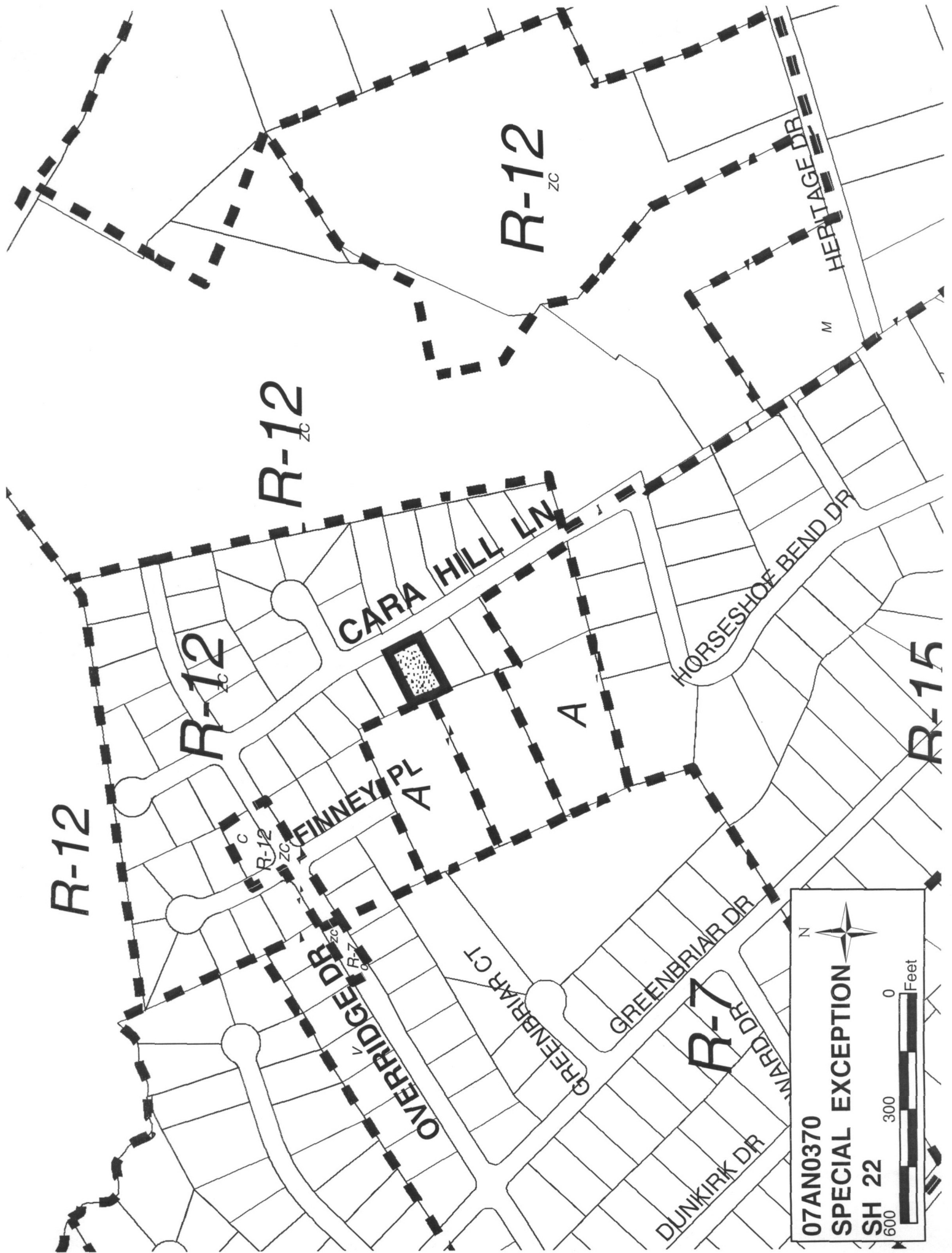
The imposing of conditions will not mitigate the negative impact that this use may have on this well established residential area. Although the yard is adequately maintained and the dogs are confined in the house and within a fence in the rear yard, the number of dogs may be a nuisance or a safety issue to adjacent and area properties. Therefore, staff cannot support this request.

However, if the Board feels that this request has merit, staff recommends that it be subject to the following conditions:

CONDITIONS

1. Special Exception shall be granted to and for Dorothy Whitbeck, exclusively, and shall not be transferable nor run with the land. (P)
2. Special Exception shall be granted for a period not to exceed three (3) years from date of approval and may be renewed upon satisfactory reapplication and demonstration that the keeping of these five (5) dogs has not proved a detriment to the adjacent property or the area in general. (P)
3. The five (5) dogs (two (2) Pomeranians, two (2) boxers and one (1) sheltie) shall be kept in the existing dwelling. Whenever these animals are allowed outside the dwelling, they shall be on a leash or within the fence in the rear yard. (P)
4. Should any of the dogs be given away, sold or pass away, it shall not be replaced. (P)
5. The applicant shall provide a history of each dog, such as age, sex, color and size as well as a photo to the Planning Department within thirty (30) days of approval of the Special Exception. (P)

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